

 KENTUCKY CORRECTIONS Policies and Procedures	Policy Number	Total Pages
	3.4	3
	Date Filed	Effective Date
	*	April 28, 2014
Authority/References KRS 18A.045, 18A.095, 18A.138, 45.560 to 45.640, 344.010, 344.040, 344.150, 344.180, 344.200, 344.210, 8 U.S.C. § 132 A, 29 U.S.C. § 206d, 29 U.S.C. §§ 621 to 633a, 29 U.S.C. §§ 706, 791 to 795r, 38 U.S.C. §§ 4211 to 4214, 42 U.S.C. §§ 2000e to 2000e-17, 42 U.S.C. §§ 12101 to 12213, 29 C.F.R. Part 825, 101 KAR 1:375, Exec. Order 2013-841, 2008-473, Executive Branch Affirmative Action Plan (2013), P & P ACA 3E-03, 3E-04 and 3E-06, ACA 2-CO-1C-09	Subject EQUAL EMPLOYMENT OPPORTUNITY COMPLAINT PROCEDURE	

I. DEFINITIONS

"Commission on Human Rights" is established by KRS 344.150.

"Department EEO coordinator" means the person designated to assist with all EEO complaints especially those received from the Division of Adult Institutions and the Division of Community Services and Facilities. This individual functions as one of three (3) appeal options within the first step of the EEO complaint procedure. The Department EEO Coordinator is trained to recognize complaints of unlawful discrimination, informs employee of all options and helps employees to understand unlawful discrimination. The EEO Coordinator has open access to and is the arm of the department head for EEO related issues. Responsibilities include the handling of all EEO activities within the appropriate Department. The Department EEO coordinator confers with the EEO counselor, other appropriate persons, and supervisors within the Department to resolve the complaint. All EEO complaints shall be brought to the attention of the Personnel Director who shall notify appropriate staff within the Department of Corrections on a need to know basis.

"EEOC" means the federal agency that has authority to investigate and attempt conciliation of discrimination complaints.

"EEO complaint" means an employee or applicant complaint that alleges discrimination in regard to race, color, religion, national origin, handicap, sex, age, sexual orientation, gender identity, ancestry, or veteran's status.

"EEO counselor" means the person who functions as the initial communication link for first line supervisors or employees if a complaint is believed to be related to Equal Employment Opportunities, and is an open communication channel through which

Policy Number	Effective Date	Page
3.4	April 28, 2014	2

employees may raise questions, discuss complaints, and get answers to problems connected with Equal Employment Opportunity.

The EEO counselor acts as an alternative to the chain of command, bridges employee complaint with management, is knowledgeable of the entire two (2) step EEO complaint procedure, and assists the complainant with other avenues of appeal like the formal grievance procedure. An EEO counselor is trained to recognize complaints of unlawful discrimination, informs employee of all options, and helps employees to understand unlawful discrimination. If notified, the EEO counselor insures that the EEO complaint procedure and other appeals related to equal employment opportunity are pursued within the appropriate time frames. Specific responsibilities include: assisting employees to complete the Equal Employment Opportunity Allegation Form and assisting to gather any information requested by the Department EEO coordinator. The EEO counselor shall represent employees in the probation and parole districts, adult institutions and central office departments, offices, and department auxiliaries with non-departmental status.(this is not part of the definition. Consider moving lower in the policy in a section explaining how things are handled)

"EEO office" means the Personnel Cabinet EEO office that serves as an alternative process to handle complaints. The EEO office is one of three (3) appeal options within the first step of the EEO complaint procedure. The EEO office aids in deciding how to resolve the complaint and confers with all appropriate persons in arriving at a decision.

If the complaint procedure has been completed before complainant comes to this office, the EEO office shall review the procedures and findings of the agency and respond to the complainant within ten (10) days after receipt of the complaint.

"Personnel Board" is defined in KRS 18A.045.

II. POLICY and PROCEDURE

The Equal Employment Opportunity Complaint Procedure shall be established to provide a means of communication and administration for orderly and fair responses to an employee's complaint of discrimination in regard to race, color, religion, national origin, handicap, sex, age, sexual orientation, gender identity, ancestry, or veteran's status.

Each office head, warden, division director, branch manager, and probation and parole district supervisor within the Department of Corrections shall ensure employees are informed of and provided access to the Department's EEO complaint procedure. This procedure shall not be a replacement for the normal chain of command but provide an alternative to the formal grievance procedure.

- A. The Department of Corrections EEO complaint procedure is intended to give a resolving response to the complaining party within twenty (20) calendar days or less from the date the complaint is initiated unless the complaint cannot be

Policy Number	Effective Date	Page
3.4	April 28, 2014	3

resolved or properly investigated within this period. Due to the nature of many EEO complaints and investigations, time frames may require an appropriate extension. Any extensions of the time frames shall be agreed to in writing by all parties. Failure to agree to a reasonable extension of the time frames may result in a decision that is not fully investigated which may end with the accusations not being substantiated unless it is obvious in nature. Since the nature of a discrimination complaint is personal and private to the complainant, the Department EEO coordinator, designee, or EEO counselor shall advise the complainant of all appeal options and, if appropriate, inform the complainant of a more formal approach toward resolution.

- B. Within three (3) days of the alleged discriminatory action, the employee shall contact the EEO counselor within his office, institution, or district to discuss the problem. An employee desiring to file an official EEO complaint shall obtain a Department of Corrections Equal Employment Opportunity Allegation Form from the local EEO counselor. The completed complaint form, with attachments, shall be submitted to the local EEO counselor. The EEO counselor shall help the employee determine if the problem falls within the EEO discrimination guidelines. If the EEO counselor and employee determine that the complaint cannot be resolved at the lowest level possible, then the two (2) step EEO complaint procedure or other appeal options shall be pursued within the appropriate timetables.
- C. If the employee desires to pursue the resolution of his complaint within the Department beyond the contact with the local EEO counselor or outside the Department, the employee shall appeal in writing by submitting an Allegation Form (Attachment I) to the Department EEO coordinator. The employee is encouraged to submit the complaint (Allegation Form) within three (3) to five (5) calendar days of the occurrence. The employee shall receive a written response from the Department EEO coordinator within five (5) calendar days after receipt of the complaint. After an appropriate review, the Department EEO Coordinator confers with the Personnel Director and other executive staff on a need to know basis.
- D. If the employee fails to receive a reply from the Department EEO coordinator within five (5) calendar days, or if the employee is not satisfied with the resolution offered, a written appeal may be submitted to the Commissioner of the Department of Corrections within three (3) calendar days of the decision. The Commissioner shall reply to the employee within five (5) calendar days.
- E. Following the Commissioner's response, if the employee is still not satisfied that the problem has been resolved, he may exercise other options of appeal available to address the complaint.

Policy Number	Effective Date	Page
3.4	April 28, 2014	4

- F. Other appeal options include the Personnel Board, the Commission on Human Rights, the Equal Employment Opportunity Commission, and other regulatory agencies as may be applicable.
- G. Deadlines for appeals to the Personnel Board are stated in KRS 18A.095.

**DEPARTMENT OF CORRECTIONS
EQUAL EMPLOYMENT OPPORTUNITY
ALLEGATION FORM**

Occurrence Date _____

Employee Name _____

Position or Title _____

Name of Location or Facility _____

Immediate Supervisor _____

Discussed with EEO Counselor within one (1) to three (3) days of occurrence

_____ YES _____ NO Date _____

EEO Complaint submitted to Department EEO Coordinator within three (3) to five (5) calendar days of occurrence

_____ YES _____ NO Date _____

STATEMENT OF DISCRIMINATORY ALLEGATION OR CHARGE

LIST STATEMENTS OF SPECIFIC DETAILS TO SUPPORT ALLEGATION OR CHARGE

Signature